

December 2012

**COMPTROLLER'S REPORT ON
MORTGAGE TAX COLLECTION
IN ERIE COUNTY FOR 2011 AND
THE FIRST THREE QUARTERS OF 2012
COMPARED TO PRIOR YEARS 2007-2010**



DAVID J. SHENK
ERIE COUNTY COMPTROLLER

Lorne Steinhart, MBA
Deputy Comptroller - Accounting & Finance

To the Honorable Erie County Legislature and County Executive Poloncarz:

The Erie County Comptroller's Office ("Office") has completed its reconciliation of all mortgage taxes collected by Erie County ("County") through Third Quarter 2012 and has reported its findings to the Office of the New York State Comptroller ("NYS Comptroller") pursuant to Article 11 of the New York State Tax Law. Mortgage Tax is collected by the Erie County Clerk's Office ("Clerk") pursuant to specific formulas as detailed herein, and the collected tax is submitted to our Office for final reconciliation, reporting to the NYS Comptroller, and distribution of applicable amounts to the cities, towns and villages. This report is provided as an indicator of the County's economic condition during the past year and nine months, comparing it to prior years 2007-2010, as it pertains to the County's real estate market.

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I. Introduction

New York State Tax Law Article 11 (Sections 250 – 267) provides that a tax may be imposed against the value of "every mortgage or deed of trust which imposes a lien or affects the title to real property, notwithstanding that such property may form a part of the security for the debt or debts secured thereby." ¹ In effect, the mortgagee and mortgagor of real property are assessed a fee for entering into said mortgage agreement and filing said agreement in the applicable county clerk's office. New York law provides some exemptions to the above general imposition, as well as varying determination on the amount of tax to be collected depending on the type and location of the real property.

In the County, the mortgage tax is one percent (1.0%) of the total mortgaged amount, except in the case of a single or double residential dwelling, which is that amount minus twenty-five dollars (\$25.00). However, the formula for determining who pays what portion of the mortgage tax depends on the type of property being secured by the mortgage. Under the current law, the tax to be paid for a parcel of mortgaged real property in the County is as follows:

¹ New York State Tax Law § 250(2)(a).

Single or Double Residential Dwelling:

- By Mortgagor: $\frac{1}{2}$ of 1% of \$10,000 of total amount secured and $\frac{3}{4}$ of 1% of entire amount over \$10,000.
- By Mortgagee: special additional tax, $\frac{1}{4}$ of 1% of total amount secured.

Multiple Dwellings (three to six residences):

- By Mortgagor: $\frac{3}{4}$ of 1% of total amount secured.
- By Mortgagee: $\frac{1}{4}$ of 1% of total amount secured.

Part Residential (six or fewer units), Part Commercial:

- By Mortgagor: $\frac{3}{4}$ of 1% of total amount secured.
- By Mortgagee: $\frac{1}{4}$ of 1% of total amount secured.

More than six Residential Dwellings, or All Commercial Property, or Vacant Land:

- By Mortgagor: 1% of the total amount secured; total amount secured is rounded off to the next hundred (if mortgage is \$10,050.00, tax is computed on \$10,000. If mortgage is \$10,050.01, tax is computed on \$10,100.00).

Each quarter, the Clerk certifies to our Office – and subsequently to the NYS Comptroller – the total number of real estate mortgages closed during the quarterly reporting period and the amount of mortgage tax collected on those mortgages. Our Office then performs a reconciliation on the amount of mortgage tax collected during the quarterly reporting period, and then the County Comptroller is required to report and certify to the NYS Comptroller on the amount of mortgage tax collected during said period. Enclosed are the four most recent certifications – for the reporting periods Fourth Quarter 2011 through Third Quarter 2012 – filed by the County Comptroller.

Each month the County retains \$37,500 of mortgage tax revenue as a fee for processing mortgage tax transactions. On a biannual basis (i.e., June for the period of October 1 through March 31 and December for the period of April 1 through September 30), the County makes distributions of mortgage tax receipts to the three cities, 25 towns and 16 villages located in the County. The distributions are determined by the number of total mortgages entered into for each municipality during the applicable period. These distributions provide a very good, although not precise, indication on the real property purchase and sale market for each municipality, and in total, for the County.

II. 2011 Mortgage Tax Revenues were the Lowest of the Past Four Years but Improved through First Three Quarters of 2012

Based on reports provided to our Office by the Clerk, the County Comptroller has certified to the NYS Comptroller on the amount of mortgage tax collected in the County in 2011 and through the first three quarters of 2012. As such, our Office can report on the total amount of mortgage tax collected in

2011, and the first three quarters of 2012, and compare the amounts to prior years. Total amounts collected for each year, categorized by calendar quarter, are indicated below in Table 1.²

Table 1. Mortgage Tax Collection by Quarter for Period 2007 – Third Quarter 2012

	2007	2008	2009	2010	2011	2012
1st Qtr	3,827,744	3,406,268	2,988,219	2,253,117	2,993,906	3,487,536
2nd Qtr	4,948,698	4,019,277	4,178,152	3,315,270	3,066,729	3,734,926
3rd Qtr	<u>4,795,713</u>	<u>3,701,010</u>	<u>4,193,094</u>	<u>3,102,310</u>	<u>2,952,001</u>	<u>4,067,239</u>
Subtotal	13,572,155	11,126,555	11,359,465	8,670,697	9,012,636	11,289,701
4th Qtr	<u>3,954,905</u>	<u>2,800,215</u>	<u>3,552,649</u>	<u>3,661,717</u>	<u>3,272,618</u>	
Total	<u>17,527,060</u>	<u>13,926,770</u>	<u>14,912,114</u>	<u>12,332,415</u>	<u>12,285,254</u>	<u>11,289,701</u>

In 2011, mortgage tax collections in Erie County were at their lowest point since the national economic recession began in the second half of 2008. In fact, 2011 mortgage tax collections were \$47,161 (.38%) less than 2010, \$2.6 million (17.6%) less than 2009, \$1.6 million (11.8%) less than 2008 and more than \$5.2 million (29.9%) less than 2007. Moreover, other than First Quarter 2011, every quarter of 2011 was less than the corresponding quarters for 2009 and 2010 and lower than the first three quarters of 2008. Also, Third Quarter 2011 was the only reported third quarter at less than \$3.1 million.

For the first nine months of 2012, the County's mortgage tax collections rebounded by exceeding the first three-quarter totals of 2011 and 2010 by 25.3% and 30.2%, respectively. In fact, 2012 mortgage tax collections through September 30 exceeded three out of the five previous years – in 2009 and 2007 mortgage tax collections outpaced the County's 2012 collections by .6% and 20.2%, respectively.

² Quarterly amounts as identified in the quarterly reports filed by the Erie County Comptroller's Office with the New York State Comptroller's Office for the periods of 2007-2012.

Table 2 - Mortgage Tax Collection by Month for Period January 2007 - September 2012

	2007	2008	2009	2010	2011	2012
January	1,414,599	949,979	942,161	761,163	1,198,270	1,050,689
February	941,944	1,378,770	923,610	644,992	887,959	1,107,623
March	1,471,202	1,077,520	1,122,448	846,962	907,677	1,329,224
April	1,820,290	1,449,119	1,640,174	976,997	925,893	1,128,908
May	1,453,941	1,294,188	1,366,856	926,466	1,080,749	1,251,321
June	1,674,467	1,275,971	1,171,122	1,411,807	1,060,087	1,354,697
July	1,520,198	1,276,498	1,296,866	907,479	940,988	1,388,901
August	1,646,583	1,386,858	1,310,981	858,919	1,054,891	1,387,042
September	1,628,932	1,037,654	1,585,247	1,335,912	956,122	1,291,297
October	1,412,093	1,134,269	1,125,558	1,120,796	998,507	
November	1,488,105	819,325	1,339,033	1,161,446	1,023,188	
December	1,054,707	846,620	1,088,059	1,379,476	1,250,923	
Total	17,527,060	13,926,770	14,912,114	12,332,415	12,285,254	11,289,701

In 2011, mortgage tax collection started moderately strong relative to 2008-2010, but beginning in September collections were consistently less than prior years other than September through December 2008. Through nine months of 2012, mortgage tax collections were consistent with only a \$338,212 spread between the lowest and highest months, and collections during the months of March and June through September were particularly robust relative to the previous four years (2008-2011).

III. Decreases in Mortgage Tax Revenues Can Adversely Impact Local Governments' Budgets

As noted above, mortgage tax revenues are distributed to local cities, towns and villages based on the total transactions closed for each municipality. Any reduction in mortgage tax revenues can adversely impact these municipalities, especially if municipal budgets included increases in mortgage tax revenue as compared to the prior year.

Table 3 below identifies the amount distributed to each city, town and village in Erie County in 2007 through 2012.

Table 3 Municipal Mortgage Tax Disbursements 2007 – 2012

Municipality	2007	2008	2009	2010	2011	2012	Total all Years
City of Buffalo	2,589,814	2,288,133	1,726,685	1,616,995	1,537,608	1,854,576	11,613,811
City of Lackawanna	160,452	128,785	99,200	103,662	135,650	193,000	820,749
City of Tonawanda	184,419	162,370	129,577	179,056	119,726	161,550	936,698
Town of Alden	144,539	131,705	147,443	122,878	122,404	162,998	831,967
Town of Amherst	3,732,575	2,561,149	2,783,655	2,189,619	2,205,581	2,575,771	16,048,350
Town of Aurora	307,258	286,622	273,290	227,411	304,553	303,462	1,702,596
Town of Boston	202,792	138,517	174,682	136,659	143,846	155,540	952,036
Town of Brant	37,739	27,786	27,112	24,041	22,542	19,815	159,035
Town of Cheektowaga	1,904,348	1,357,842	881,252	887,998	819,589	909,276	6,760,305
Town of Clarence	1,210,128	1,076,594	1,040,516	928,844	1,045,752	1,134,417	6,436,251
Town of Colden	77,502	70,554	56,225	65,300	65,664	73,806	409,051
Town of Collins	36,198	34,759	48,999	33,058	34,227	33,238	220,479
Town of Concord	97,984	105,913	94,721	73,848	76,814	91,396	540,676
Town of Eden	150,187	136,018	145,996	115,512	123,027	177,249	847,989
Town of Elma	349,497	262,867	285,369	250,838	307,325	370,122	1,826,018
Town of Evans	302,712	280,347	221,069	168,129	189,820	203,453	1,365,530
Town of Grand Island	505,917	593,236	614,251	456,906	454,706	539,573	3,164,589
Town of Hamburg	1,174,131	962,979	980,303	869,542	962,680	1,065,865	6,015,500
Town of Holland	62,535	66,037	79,427	57,953	54,692	65,038	385,682
Town of Lancaster	943,054	1,012,254	807,905	697,201	741,809	864,346	5,066,569
Town of Marilla	124,395	93,404	88,460	69,137	88,590	116,609	580,595
Town of Newstead	124,961	121,359	124,811	93,503	151,947	123,687	740,268
Town of North Collins	51,101	40,702	36,104	32,128	42,324	39,994	242,353
Town of Orchard Park	1,003,640	864,903	762,628	702,961	774,048	772,585	4,880,765
Town of Sardinia	47,387	50,351	51,372	53,654	40,944	44,279	287,987
Town of Tonawanda	1,165,687	998,374	1,147,579	843,566	829,794	965,728	5,950,728
Town of Wales	75,920	61,758	59,424	53,641	64,037	76,772	391,552
Town of West Seneca	733,929	662,288	693,221	650,407	655,368	780,344	4,175,557
Village of Akron	21,616	20,610	21,134	15,700	25,152	20,523	124,735
Village of Alden	16,287	14,878	16,606	13,800	13,724	18,321	93,616
Village of Angola	15,155	13,462	10,466	7,978	9,250	10,118	66,429
Village of Blasdell	21,559	17,260	17,174	15,184	16,541	18,149	105,867
Village of Depew (Lan.)	68,644	73,199	57,215	47,661	48,178	54,898	349,795
Village of Depew (Chk.)	98,247	69,185	45,241	45,433	41,659	46,179	345,944

Village of East Aurora	82,113	75,951	71,530	59,668	79,500	78,879	447,641
Village of Farnham	2,346	1,640	1,359	1,215	1,144	1006	8,710
Village of Gowanda	4,700	4,505	6,312	4,239	4,334	4,136	28,226
Village of Hamburg	98,827	80,505	81,193	71,864	78,843	87,107	498,339
Village of Kenmore	78,951	68,289	79,121	58,147	57,199	66,655	408,362
Village of Lancaster	102,680	109,518	86,004	73,091	75,689	86,578	533,560
Village of North Collins	6,885	5,403	4,745	4,131	5,286	4,948	31,398
Village of Orchard Park	51,023	43,577	37,766	34,899	38,187	37,855	243,307
Village of Sloan	22,945	16,115	10,332	10,248	9,211	10,160	79,011
Village of Springville	32,197	35,068	31,157	24,291	25,104	29,749	177,566
Village of Williamsville (Amh.)	69,098	47,004	51,822	40,096	40,424	47,033	295,477
Village of Williamsville (Chk.)	259	182	115	115	108	122	901
Total	18,294,333	15,273,957	14,210,568	12,232,207	12,684,600	14,496,905	87,192,570

Note:

2007 disbursements include monies collected in October, November and December 2006. Mortgage tax revenues collected in October, November and December 2011 and January, February and March 2012 were disbursed to the municipalities in June 2012.

As noted above, only the Village of Akron and Town of Newstead realized an annual increase in revenues derived from the mortgage tax from 2007 to 2011. Every other town, city and village has experienced a reduction in mortgage tax revenues received in 2011 compared to 2007, though it should be noted that some municipalities did experience growth in 2008 and/or 2009, only to endure significant reductions in 2010 and/or 2011.

The reductions did not discriminate based on municipal size or location. For example, two of the County's largest towns endured some of the largest reductions as (1) the Town of Amherst's 2007 mortgage tax revenues of \$3,732,575 decreased to \$2,205,581 in 2011, or approximately 41% and (2) the Town of Cheektowaga 2007 revenues of \$1,904,348 decreased to \$819,589 in 2011, or approximately 57%, while the Village of Farnham, one of the county's smaller municipalities, experienced a reduction of more than 51% as 2007 revenues of \$2,346 decreased each year and were \$1,144 in 2011.

"Growing" municipalities such as Lancaster and Clarence saw their mortgage tax revenues decrease when compared from 2007 to 2010. In Lancaster, mortgage tax revenues grew in 2008 from 2007, \$1,012,254.12 to \$943,054, respectively, but then decreased to \$807,905 in 2009, decreased to \$697,201 in 2010 and then increased to \$741,809 in 2011. In Clarence, mortgage tax revenues decreased each year: in 2007 revenues were \$1,210,128, then decreased to \$1,076,594 in 2008, then \$1,040,516 in 2009 then to \$928,844 in 2010 and then finally increased to \$1,045,752 in 2011.

The same result occurred for the three cities in the County; i.e., Buffalo, Lackawanna and Tonawanda.

While the County derives little revenue from the mortgage tax, depending on the municipality, revenues derived from mortgage taxes may make up a significant portion of a municipality's budget, and any decrease could have a serious negative impact.

IV. Conclusion

Unlike other portions of our country, Erie County's real estate market has not experienced a robust or "boom" period of growth. However, when the Great Recession of 2008-10 occurred, the County's real estate market did not drop substantially (or "bust") as other areas did, but the recession did negatively impact the market, and as a result, local governments.

In addition to the significant reduction in sales tax revenues derived during the recent recession (the County shares roughly 46% of all sales tax revenues with local governments and other entities), almost every local government experienced a substantial decrease in revenue derived from mortgage taxes. As such, our office recommends that all local government administrators continue to budget conservatively for future mortgage tax revenues.

Respectfully,

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Mayors, Supervisors and Administrators of Erie County Cities, Towns and Villages
Erie County Fiscal Stability Authority
Buffalo Niagara Association of Realtors



COUNTY OF ERIE

LORNE H. STEINHART

ACTING COMPTROLLER

To the Comptroller of the State of New York:

I hereby report that under article 11 of the General Tax Law which requires the payment of a tax for recording mortgages in this State, I have received from the County Clerk of the County of Erie as follows:

For the Month of	Date Received	Amount Received
October, 2011	November, 2011	\$998,507.29
November, 2011	December, 2011	\$1,023,188.10
December, 2011	January, 2012	\$1,250,922.70
Received from County Clerk		\$3,272,618.09
Received Interest on bank deposits		\$0.00
Total amount received		\$3,272,618.09
Expenses allowed by State Tax Commission		\$0.00

Respectfully submitted,

Lorne Steinhart
Acting Comptroller

Dated at Buffalo, NY, February 9, 2012



COUNTY OF ERIE

**DAVID J. SHENK
COMPTROLLER**

To the Comptroller of the State of New York:

I hereby report that under article 11 of the General Tax Law which requires the payment of a tax for recording mortgages in this State, I have received from the County Clerk of the County of Erie as follows:

For the Month of	Date Received	Amount Received
January, 2012	February, 2012	\$1,050,689.23
February, 2012	March, 2012	\$1,107,623.39
March, 2012	April, 2012	\$1,329,223.79
Received from County Clerk		\$3,487,536.41
Received Interest on bank deposits		\$0.00
Total amount received		\$3,487,536.41
Expenses allowed by State Tax Commission		\$0.00

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David J. Shenk", is written over a horizontal line.

David J Shenk
Erie County Comptroller

Dated at Buffalo, NY, April 23, 2012



COUNTY OF ERIE

DAVID J. SHENK
COMPTROLLER

To the Comptroller of the State of New York:

I hereby report that under article 11 of the General Tax Law which requires the payment of a tax for recording mortgages in this State, I have received from the County Clerk of the County of Erie as follows:

For the Month of	Date Received	Amount Received
April, 2012	May, 2012	\$1,128,907.58
May, 2012	June, 2012	\$1,251,321.32
June, 2012	July, 2012	\$1,354,697.15
Received from County Clerk		\$3,734,926.05
Received Interest on bank deposits		\$0.00
Total amount received		\$3,734,926.05
Expenses allowed by State Tax Commission		\$0.00

Respectfully submitted,

David J Shenk
Erie County Comptroller

Dated at Buffalo, NY, July 16, 2012



COUNTY OF ERIE

DAVID J. SHENK
COMPTROLLER

To the Comptroller of the State of New York:

I hereby report that under article 11 of the General Tax Law which requires the payment of a tax for recording mortgages in this State, I have received from the County Clerk of the County of Erie as follows:

<u>For the Month of</u>	<u>Date Received</u>	<u>Amount Received</u>
July, 2012	August, 2012	\$1,388,901.15
August, 2012	September, 2012	\$1,387,041.20
September, 2012	October, 2012	\$1,291,296.37
Received from County Clerk		\$4,067,238.72
Received Interest on bank deposits		\$0.00
Total amount received		\$4,067,238.72
Expenses allowed by State Tax Commission		\$0.00

Respectfully submitted,

David J. Shenk
Erie County Comptroller

Dated at Buffalo, NY, October 12, 2012